

**BEFORE THE DIVISION OF INSURANCE**

**STATE OF COLORADO**

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**FINAL AGENCY ORDER O-10-032**

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**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF  
PERMANENT GENERAL ASSURANCE CORPORATION**

**Respondent**

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**THIS MATTER** comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Permanent General Assurance Corporation (the "Respondent"), pursuant to §§ 10-1-203 and 10-3-1106, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated June 9, 2009, (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

**FINDINGS OF FACT**

1. At all relevant times, the Respondent was licensed by the Division as a property and casualty insurer.
2. In accordance with §§ 10-1-203, and 10-3-1106, C.R.S., on June 9, 2009, the Division completed a limited scope market conduct examination of the Respondent. The period of examination was January 1, 2008 to December 31, 2008. The scope of the examination was limited to private passenger automobile policies that had been cancelled by the Company and total loss automobile claims.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The

Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

#### **CONCLUSIONS OF LAW AND ORDER**

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue J1 concerns the following violation: Failure, in some cases, to pay correct sales tax on total loss automobile claims. The Respondent shall provide evidence to the Division that it has reviewed its claim handling practices and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue J2 concerns the following violation: Failure, in some cases, to pay correct title transfer fees on total loss claims. The Respondent shall provide evidence to the Division that it has reviewed its claim handling practices and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
11. Pursuant to §§ 10-1-205(3)(d), and 10-1-215, C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of twenty-nine thousand and no/100 dollars (\$29,000.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007. Said penalty

shall be assessed a 10% surcharge, or \$2,900.00, pursuant to 24-34-108, C.R.S., for a total balance due of \$31,900.00 which will be due to the Division within 30 days of the signing of this Final Agency Order. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program.

12. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.
13. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section.
14. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
15. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of §§ 10-1-205, and 10-1-212, C.R.S.

**WHEREFORE:** It is hereby ordered that the findings and conclusions contained in the Report dated June 9, 2009, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 6<sup>th</sup> day of October, 2009.

  
Marcy Morrison  
Commissioner of Insurance

**CERTIFICATE OF MAILING**

I hereby certify that on the 6<sup>th</sup> day of October, 2009, I caused to be deposited the **FINAL AGENCY ORDER NO. O-10-032 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF PERMANENT GENERAL ASSURANCE CORPORATION**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Randy P. Parker, President  
Permanent General Assurance Company  
2636 Elm Hill Pike, Suite 510  
Nashville, TN 37214



Eleanor Patterson  
Market Regulation Administrator  
Division of Insurance